

A RESOLUTION

02-R-1493

**BY TRANSPORTATION COMMITTEE
(AS AMENDED)**

A RESOLUTION AUTHORIZING THE MAYOR OR HER DESIGNEE TO EXECUTE A LEASE AGREEMENT WITH AIRTRAN AIRWAYS, INC., (AIRTRAN) TO PROVIDE FOR THE CONSTRUCTION, ESTABLISHMENT AND OCCUPANCY OF AN AIRCRAFT MAINTENANCE HANGAR FACILITY ON TRACT 6A AT THE HARTSFIELD ATLANTA INTERNATIONAL AIRPORT, FOR A TERM COMMENCING ON THE DATE OF BENEFICIAL OCCUPANCY OF THE LEASED PREMISES AND TERMINATING ON SEPTEMBER 20, 2010, SUBJECT TO AN OPTIONAL LEASE TERM EXTENSION FOR A TOTAL LEASE TERM OF TWENTY (20) YEARS, AND THE PAYMENT OF APPLICABLE LAND RENTALS AND AMORTIZING FACILITIES IMPROVEMENT RENTALS, WITH ALL FACILITIES TO BE CONSTRUCTED BY AIRTRAN AND FINANCED BY THE CITY OF ATLANTA AT A COST NOT TO EXCEED FOURTEEN MILLION FIVE HUNDRED THOUSAND DOLLARS (\$14,500,000.00) , TO BE CHARGED TO AND PAID FROM FUND ACCOUNT CENTER NO. 2H21 573001 R21E05079999 AND FOR OTHER PURPOSES.

WHEREAS, the City of Atlanta owns and operates the Hartsfield Atlanta International Airport ("Airport"), upon which there exists certain lands and facilities for the lease and use of airlines and other aeronautical users; and

WHEREAS, AirTran Airways, Inc. ("AirTran") is an airline engaged in the transportation of persons and property by scheduled aircraft service and serves the Airport from premises and facilities leased from the City in the Central Passenger Terminal Complex, the Airport is AirTran's primary passenger hub and AirTran is the Airport's second largest carrier of passengers; and

WHEREAS, AirTran desires to lease additional premises on the Airport for use in constructing, establishing and operating an Aircraft Maintenance Hangar Facility and the City has agreed to finance the construction cost of the facility at a cost not to exceed \$14.5 million; and

WHEREAS, it is in the best interest of the City to enter into a lease agreement with AirTran for such premises and to finance the construction of those improvements.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA, that the Mayor or her designee be and hereby is authorized to execute on behalf of the City of Atlanta a Lease Agreement and any other necessary agreements for an Aircraft Maintenance Hangar Facility on Tract No. 6A, which lease shall permit the Lessee to construct, establish and operate an aircraft maintenance hangar facility for the exclusive use of Lessee for purposes that are a part of or incidental to the operation of its business of

operating as a certificated air carrier for the carriage of persons, property and mail.

BE IT FURTHER RESOLVED that the City Attorney be and hereby is directed to prepare the Lease Agreement and any other necessary agreements for execution by the Mayor, to be approved as to form by the City Attorney.

BE IT FURTHER RESOLVED that Exhibit A shall constitute the terms of the agreement to be prepared for execution and approved by the City Attorney as to form.

BE IT FURTHER RESOLVED that the cost to the City under said Agreement shall be charged to and paid from Fund Account Center No. 2H21 573001 R21E05079999.

BE IT FINALLY RESOLVED that said Lease Agreement shall not become binding upon the City, and the City shall incur no obligation or liability thereunder until the same has been signed by the Mayor and delivered to AirTran.

City of Atlanta
Department of Aviation
Hartsfield Atlanta International Airport

Term Sheet for AirTran Hangar Project

June 7, 2002

The City of Atlanta, through the Department of Aviation, proposes to enter into a Lease Agreement with AirTran Airways, Inc. for the construction and occupancy of an aircraft maintenance facility under the following terms and conditions:

Proposed Lessee:

AirTran Airways, Inc.
9955 AirTran Boulevard
Orlando, FL 32827

Authorized Contact

Warren Turner
(407) 251-5630

State of Incorporation

Delaware

Construction of Facilities Improvements:

Facilities Improvements to be constructed by AirTran, subject to prior approval of plans and specifications by the Aviation General Manager (the "Phase 1 Development"):

One (1) Line Maintenance Facility for B-717 & DC-9, w/provision for B737-900 aircraft in the future;

Configured to support administrative, training, and maintenance operations required for servicing aircraft fleet, including offices and conference rooms, training and classrooms, storage areas, maintenance rooms and equipment rooms. Fire protection systems, locker rooms, cafeteria and restrooms will be incorporated into the facility.

Ramp staging areas for field maintenance of aircraft outside the hangar, consisting of parking spaces for temporary aircraft parking while out of service or for minor maintenance service.

A. Aircraft Hangar Bays: 56,700 square feet, w/minimum of two (2) and a maximum of four (4) bays.

1. Offices10,000 square feet

2. Maintenance Shops ...15,000 square feet

3. Ancillary facilities 6,400 square feet

Total Hangar Space: 88,100 square feet

B. Aircraft Ramp: 87,000 square feet, two (2) aircraft parking positions

C. Taxiway/Taxilane: 145,000 square feet

D. Automobile Parking: 32,750 square feet, minimum of 50 spaces (with maneuvering area for a tractor trailer rig).

E. Additional Items:

1. Perimeter Security Fence

2. Site utility upgrades for water, sewer, power & gas

3. Site landscaping
4. Ramp Lighting
5. Landside ingress and egress for automotive vehicles

Maximum Investment:

\$14.5 Million (estimated) Phase 1 Development

Construction Term:

The Construction Term shall commence immediately upon execution of the Lease Agreement by the Mayor of the City of Atlanta. Within three (3) months after the date of the City's written approval of the plans and specifications for the Phase 1 Development, AirTran shall start construction, and within two (2) years after starting, shall complete construction of the improvements set forth above. The date of completion of said construction will, however, be extended for the period of any unavoidable delay, if AirTran makes a claim for such delay in writing to the City within ten (10) days after the commencement of the cause for such delay. Title to all leasehold improvements shall vest with the City upon completion and issuance of a Certificate Of Occupancy.

Lease Term:

Commencing on the earlier of (i) the date of beneficial occupancy (DBO) of the Phase 1 Development, or (ii) two (2) years after commencement of the Construction Term, and continuing thereafter for a period coterminous with AirTran's CPTC Lease expiration date of September 20, 2010. So long as AirTran is operating an airline passenger hub at the Hartsfield Atlanta International Airport (Airport), and at a level of flight activity at least equal to cy2002, then AirTran shall have the right of first refusal to extend the lease term for a total term, upon expiration, of 20 years. If at any time during the option period AirTran shall cease to operate an airline passenger hub at the Airport and/or to the flight activity level of cy2002, then this Lease Agreement shall immediately convert to a month-to-month lease, subject to termination upon 30 days prior written notice, subject to the following.

If AirTran shall commence the construction of a second hangar and associated aircraft parking apron and support area (the "Phase 2 Development") within the first five year period following DBO, then the term of this Lease Agreement shall be extended to equal a period of 20 years, as measured from the original commencement date. In the event that AirTran files for bankruptcy or is declared bankrupt, this Lease Agreement shall immediately convert to a month-to-month lease, subject to termination upon 30 days prior written notice.

Site:

Approximately 10.36 acres in Tract 6A – situated near and between the City owned Domestic and International Fuel facilities and the Delta North Hangar and Mid-Field Support Area facilities. This proposal anticipates that two hangars of relatively equal size and associated aircraft parking aprons, taxiways/taxilanes and support areas will ultimately be constructed on the Site, which developments may be co-dependant or independent.

If only the Phase 1 Development is initially constructed under this proposed Lease Agreement, then approximately one-half of the Site, or an area sufficient to accomodate a second tenancy in its entirety roughly equal to the Phase 1 Development, shall be considered to be an Expansion Area. Such Expansion Area may be leased exclusively by AirTran subject to the terms of the Lease Agreement. If AirTran shall so elect to lease the Expansion Area, then it shall have the exclusive right to terminate its lease thereof on a 30-day notice, exercisable at any time.

If AirTran shall not elect to lease the Expansion Area, then such area shall be retained by the City as a developable area. AirTran shall have no right of first refusal thereto and the City may, without consulting AirTran, offer the Expansion Area to any potential tenant for lease and development.

Site Conditions:

AirTran has made itself fully aware of the existing site conditions and accepts the Site as-is, including any existing environmental conditions. AirTran shall be responsible for complying with all environmental laws, regulations, and rules. AirTran shall be responsible for the remediation of any environmental contamination arising from their tenancy of the Site.

Financing:

The cost incurred by AirTran for the design and construction of the Phase 1 Development, which shall be a maximum investment of \$14.5 million, shall be reimbursed to AirTran by the City, which amount shall be paid to AirTran upon a completion of construction basis to be agreed upon by and between the parties.

Nothing contained herein shall represent a commitment of, or offer by, the City to finance any future developments on the Site, including any additions or modifications to the Phase 1 Project, and/or the Phase 2 Project.

Rentals:

All of the following rentals are payable monthly in advance without demand, subject to a late payment charge in the amount of 18% per annum. A security bond or an irrevocable letter of credit shall be posted to guarantee payments in the amount of three (3) months rentals and charges.

I. Land Rental:

Commencing on the date of lease execution, AirTran shall pay a land rental of \$0.99psf/pa; which amount shall increase every 2.5 years at the rate of increase of the CPI over the previous 2.5 years, or 4% per annum compounded annually in each instance during the applicable 2.5 year period, whichever is less.

II. Existing Improvements Rental:

Commencing on the commencement date of the Lease Term, AirTran shall pay a rental of \$0.677 per square foot per annum (exclusive of Land Rental) will be applied to any existing airfield pavement to be incorporated into the AirTran leasehold.

III. Facilities Improvement Rental:

Commencing on the commencement date of the Lease Term, the Phase I Project Improvements constructed on the Site will be leased to AirTran for a rate to be determined by multiplying the City's investment (as reimbursed in accordance with the above provision) plus capitalized interest (calculated at the same 9.0% per annum rate) by the monthly factor of 0.009 computed @ 9% per annum for an amortizing term of 20 years.

IV. Taxilane Rental:

In the event AirTran leases the Expansion Area, then any aircraft taxilway/taxilane pavement incorporated into the Site or constructed thereon, and identified exclusively for the movement and maneuvering of aircraft, shall be deemed exclusive-use premises and AirTran shall pay all applicable rentals thereon.

In the event AirTran does not lease the Expansion Area, then any aircraft taxilway/taxilane pavement incorporated into the Site or constructed thereon, and

identified exclusively for the movement and maneuvering of aircraft, shall be deemed a Common-use Taxilane. Any and all Land Rental, Existing Improvements Rental and Facilities Improvement Rental attributable thereto shall be paid by AirTran and any other tenant located on the Site or adjacent to the Site and utilizing same for aircraft movement, in a proportion equal to their leased premises square footage divided by the total leased square footage of all tenancies so utilizing the Common-use Taxilane, or in some other proportion as may be agreed to between the parties and approved by the Aviation General Manager.

Use of Premises:

The Leased Premises shall be used by AirTran only for the following specific uses and purposes that are a part of or incidental to the operation of its business of operating as a certificated air carrier for the carriage of persons, property, and mail:

- (a) The parking, storing, overhauling, repairing, maintaining, taxiing, moving, testing, and servicing of aircraft and aircraft engine parts and components, vehicles and other equipment;
- (b) The storage of aircraft, engines, parts, components, accessories, oil, greases, lubricants, and other equipment, and supplies;
- (c) The training of personnel in the maintenance, operation, and dispatching of aircraft;
- (d) The installation for employee use of vending machines and public pay phones.

Any revenue received from the use of the Leased Premises in violation of the above permitted uses shall inure immediately and completely to the City.

Other Conditions:

In the event that AirTran files for bankruptcy or is declared bankrupt, this Lease Agreement shall immediately convert to a month-to-month lease, subject to termination upon 30 days prior written notice.

Rights of Termination:

The City hereby reserves the right to further develop or improve the Airport and all landing areas and taxiways as it may see fit, regardless of the desires or views of AirTran and without interference or hindrance. If development or improvement of the Airport, landing areas or taxiways causes the requirement for use and mandates that AirTran vacate the Leased Premises, the City shall have the right to terminate the Lease Agreement at any time during the Term by giving written notice to AirTran at least three hundred and sixty-five (365) days prior to the effective date of such termination.

Immediately upon such termination, all land and facilities rentals accruing to the City by virtue of this Lease shall cease. The City shall use its reasonable best efforts to identify a replacement site for the development anticipated herein as it may exist at the time of vacating. However, nothing contained herein shall require the City to make any identifiable site so available or to make extensive preparations to any identified site. The appropriateness and availability of any site on the Airport shall be at the sole determination of the City.

Limitations on Assignment, Transfer, and Subletting:

AirTran shall not assign or transfer the Lease Agreement without the prior written consent of the City. AirTran shall not sublease the Leased Premises, or any portion thereof, without the prior written consent of the Airport General Manager.

Responsibility for Maintenance of the Leased Premises:

AirTran shall, throughout the term of the Lease Agreement, and at no expense to the City, be responsible for the performance of maintenance and repairs of the Leased Premises, keeping and maintaining said Leased Premises, and all improvements, landscaping, fixtures, and equipment, which may now or hereafter exist thereon, in good, sanitary order and repair, and in good safe, and presentable condition, consistent with the highest form of business practices.

Inspection of Premises Prior to Expiration of the Term:

A walk through inspection of the premises shall be made by the Aviation General Manager or his designee and a representative of AirTran prior to the expiration of the Term hereof, for the purpose of noting deficiencies in the maintenance of the Leased Premises. AirTran shall correct any and all deficiencies noted during such inspection.

Cross Default Provision:

In the event that Lessee shall default on the terms and conditions of this or any other agreement with the City, and such other agreement is terminated for cause, then this agreement shall co-terminate with such agreement without recourse.